

alleging that Plaintiffs have failed to state a claim upon which relief may be granted. As the Magistrate's recommendation correctly states, the court must accept all well-pleaded facts as true, viewing them in the light most favorable to the Plaintiffs. The Magistrate's recommendation however, failed to apply the correct legal standard articulated. Proper application of the standards lead to the inescapable conclusion that Defendants' Motions must be denied. Accordingly, this Court should reject the Magistrate's recommendations that Defendants' Motions should be partially granted.

II. PLAINTIFFS' SPECIFIC OBJECTIONS

Plaintiffs specifically object and seek a *de novo* review of the following findings, conclusions and recommendations:

- That Plaintiffs did not adequately plead claims against Defendant Price pursuant to 42 U.S.C. § 1983. [Dkt. 24, pages 5-7].
- That Defendant Price would be entitled to "qualified immunity". [Dkt. 24, page 7].
- That Plaintiffs did not adequately plead claims against Defendant City of La Marque under state law. [Dkt. 24, page 12-13].
- That Defendant City of La Marque is protected by governmental immunity and no waiver of immunity has been provided under the Texas Tort Claims Act. [Dkt.24, page 12-13].
- The Recommendation to grant Defendant Price's Motion to Dismiss.
- The Recommendation to grant Defendant City of La Marque's Motion to Dismiss as to Plaintiffs' state law claims.

III. CONCLUSION

For the foregoing reasons, Plaintiffs urge the Court to overrule and reject, in part, Magistrate Judge Froeschner's Report and Recommendation Regarding Defendants' Motions to Dismiss and deny Defendants' Motions to Dismiss in full.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 27nd day of October, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will automatically send email notification of said filing to the following counsel of record:

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